



**MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION**

**OPERATIONAL MEMORANDUM  
NO. 12**

**SUBJECT: INCORPORATING CHANGES TO AN APPLICATION FOR A RENEWABLE  
OPERATING PERMIT**

**EFFECTIVE DATE:** September 9, 1996  
**REVISED DATE:** February 14, 1997

**PREAMBLE**

The Air Quality Division (AQD) has developed an operating permit program as mandated by the 1990 amendments to the federal Clean Air Act. The primary purpose of this new permit program is to consolidate and clarify the air pollution control requirements that apply to a source and to provide for adequate monitoring, recordkeeping and reporting to ensure compliance with those requirements. Renewable operating permit (ROP) applications must be submitted to AQD in accordance with the schedules included in Rule 210(4). AQD staff must take final action on each application by the dates specified in Rule 210(13). There will be instances where a significant amount of time elapses between initial application submittal and the ROP issuance. In some cases over 3 years may elapse between application receipt and final action. Rule 210(2)(c) requires "prompt" submittal of additional information necessary to address any new applicable requirement to which the source becomes subject after submittal of an administratively complete application.

Rule 210(2)(c) also requires that supplementary facts or corrected information be promptly submitted if an oversight or incorrect submittal occurred in the ROP application. An ROP application may also need to be updated to address administrative changes for the source.

This memorandum clarifies the requirements for prompt updates to an administratively complete ROP application to incorporate new applicable requirements, to address oversights or incorrect submittals, and for administrative changes.

**POLICY**

Rule 210(2)(c) states in part: "In addition, a person shall promptly provide any information necessary for an administratively complete application for any applicable requirements to which the stationary source becomes subject after the date that the person submitted the administratively complete application, but before release of a draft renewable operating permit for public participation pursuant to R 336.1214(3)."

For the purposes of the ROP program, most new applicable requirements will result from New Source Review (NSR) permits which are issued just before or after the ROP application is submitted. New applicable requirements may also result from new federal requirements (National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, Section 112(r), etc.) or new state regulations promulgated after the application has been submitted.

Previously, AQD established a two step information reporting process for new requirements which take effect after the ROP has been issued under Rule 216. With this Operational Memorandum, AQD is generally adopting that established process for updating ROP applications as well.

Under this update process, the stationary source must: (1) provide a notice of applicability to AQD within 30 days of new equipment installation or within any notification timeframe specified within a new regulation, and (2) promptly submit the information necessary to incorporate these requirements into the ROP application. The appropriate timeframe for the company to promptly provide the information required to incorporate these requirements into the ROP permit application is dependent on the nature of the new requirements. When a NSR permit to install is issued, a submittal of the information within 12 months allows sufficient time to prepare a meaningful compliance plan and schedule of compliance. In the case of new state or federal regulations, the applicant must submit the amendment to the ROP application by the compliance date mandated within the specific regulation.

Rule 210 provides for the submission of batch updates for ROP applications which have final action dates of February 28, 1999, or February 28, 2000. Rule 210(2)(c) states "For administratively complete applications submitted under subrule (4)(e) and (f) of this rule, the information required by this subrule may be maintained by the person and submitted to the department in accordance with the following schedule, unless the department specifically requests that information by an earlier date pursuant to subrule (3) of this rule." Rule 210(2)(c) allows the applicant to provide a consolidated batch update approximately 12 months before the latest date that the draft ROP is to be released for public comment. If this rule is promulgated, the above timeframes will still apply, except that the information may be submitted based on the schedule in Rule 210(2)(c) where appropriate.

Once the draft ROP is released for public participation, information associated with new applicable requirements must be submitted as amendments to the approved ROP as required in Rule 216. (Refer to Operational Memorandum No. 2 for guidance on making amendments to an issued ROP.)

Rule 210(b) also states: "Any person who fails to submit any relevant facts or who has submitted incorrect information in an application for a renewable operating permit, including an application for renewal or modification of a renewable operating permit, shall, upon becoming aware of the failure or incorrect submittal, promptly submit all supplementary facts and corrected information." In the case where an applicant becomes aware of omitted or incorrect information, the submittal will be considered prompt if it is received by the AQD within 30 days of the applicant becoming aware of the problem, unless a different time period is specified in writing by the AQD.

If an administrative change occurs at the source before the ROP is issued, an update to the ROP application to reflect the change in ownership or operational control is done in a manner similar to the process for an administrative permit amendment for an issued ROP. The source submits the necessary update information to the local AQD district office within 30 days of the effective date of the change.

AQD considers a prompt submittal of information to modify an ROP application to be done in accordance with the procedure below.

## **PROCEDURE**

### **I. Changes due to new applicable requirements.**

When a source becomes subject to a new applicable requirement, the ROP application is promptly updated as follows:

- A. The ROP application is updated through a two step process, which depends on the nature of the new requirement.

1. Notice of Applicability. The applicant promptly notifies AQD when the stationary source becomes subject to new applicable requirements.
    - a) For new applicable requirements associated with NSR permits to install, the applicant submits a notification to the local AQD district office within 30 days of equipment installation. This notification must include the permit number and a statement that the necessary operating information will be submitted to amend the ROP application by the appropriate due date as specified in (2) below. A single notification may be used to meet the notification requirement for this purpose as well as for the NSR program; however, the notification must include the commitment to amend the ROP application, with a copy sent to both the local district office and the Permit Section in the AQD central office.
    - b) For new state regulations or federal requirements (such as National Emission Standards for Hazardous Air Pollutants, New Source Performance Standards, and Section 112(r)), the applicant submits a written notification to AQD in accordance with any notification requirements that are included in the standard. This notification must state that appropriate information will be submitted to amend the ROP application in accordance with the schedule specified in the promulgated standard.
  2. Submittal of Application Modification. The applicant submits a request for modification of the ROP application which includes all required information. The request for modification of the ROP application must be submitted as follows:
    - a) When a NSR permit to install is issued, the source submits the ROP application modification 12 months after equipment installation. This will allow the applicant sufficient time to prepare a meaningful compliance plan and schedule of compliance, regardless of the final action date for the ROP. If the 12-month interval ends after the draft ROP is released for public participation, the information is submitted as an amendment to the issued ROP, pursuant to subrules (1) or (2) of Rule 216.
    - b) In the case of new state or federal regulations, the applicant submits the amendment to the ROP application by the compliance date mandated within the specific regulation. If the compliance date is after the draft ROP is released for public comment, the information is submitted as a modification to the issued ROP, pursuant to Rule 216(3).
- B. Although it will not often occur, it is anticipated that there will be cases where AQD staff will work with a specific facility to establish an alternate submittal date pursuant to Rule 210(3). This would be appropriate in the situation where AQD staff is processing an ROP application well in advance of a category deadline in Rule 210(4) or if significant process equipment changes have recently been completed at a facility and the information is necessary for the ROP to be meaningful and not primarily based on outdated information. Rule 210(3) provides that AQD staff may provide a written notice to the applicant to submit needed additional information within 30 days of receipt of the AQD request, unless a written extension is approved by the department. In the event that AQD staff utilize this provision, it supersedes all other deadlines for ROP application updates.
- C. The ROP application amendment request must include all of the following operating information:
- results of testing, monitoring, and recordkeeping.
  - a schedule of compliance.
  - a certification by the responsible official which states that the information in the permit application amendment is true, accurate, and complete.

The applicant submits Form S-004 for certification by the responsible official, checking the "supplemental application information" box. Form CP-001 is submitted to provide the required compliance plan and schedule. Although not submitted on ROP application forms, monitoring and testing results must be documented and provided in the submittal.

- D. Rule 210(2)(c) provides for the submission of batch updates for ROP applications which have final action dates of February 28, 1999, or February 28, 2000. Unless specifically requested by the AQD, the owner or operator could maintain the necessary information and provide a consolidated batch update approximately 12 months before the latest date that the draft ROP is to be released for public comment. This approach saves both the applicant and AQD staff the logistics of continuous updates before the later deadline dates. If the rule revision is promulgated, information can be submitted as per the above procedure or as part of the consolidated batch update, whichever is the later date.
- E. If the additional information is due after the draft ROP is released for public participation, prompt submittal of the information would be after the ROP is issued. In this case, the necessary information is incorporated as a permit amendment, as required pursuant to Rule 216. The procedure for submitting the ROP amendment is described in AQD Operational Memorandum 2.

## II. Changes to correct oversights or incorrect information.

If an applicant becomes aware of an oversight or incorrect information in an ROP application, the correct information to amend the application must be received by AQD within 30 days of the applicant becoming aware of the problem. The information is submitted to the local AQD district office using AI-001 form(s).

## III. Administrative changes.

Information on administrative changes at the stationary source is also submitted to update the ROP application. For a change in ownership or operational control, the pertinent update information is submitted on ROP application forms S001-S004, as appropriate. The form(s) are submitted to the local district office within 30 days as an application update.

This memorandum is intended to provide guidance to Air Quality Division staff to foster consistent application of Part 55 of Act 451 of the Public Acts of 1994, the Natural Resources and Environmental Protection Act and the administrative rules promulgated thereunder. This document is not intended to convey any rights to any parties nor create any duties or responsibilities under law. This document and matters addressed herein are subject to revision.

Questions regarding this memorandum should be directed to Brian Brady at (906) 228-6561 or Joanne Foy at (517) 373-7033.

RJ:BB:JF:amh

**Attachment A:** Example Scenario.

**Attachment B:** Deadlines/Timeframes in the ROP Rules.

## Attachment A

### Example Scenario

XYZ Company has an application due date of February 28, 1997. Under Rule 210, the AQD is required to take final action on the application by February 28, 2000. It is a very large and complex facility with several process and equipment changes that take place in that interval. The administratively complete application is submitted on February 1, 1997. The draft ROP will go out for public comment around January 1, 2000.

**Question:** When are each of these applicable requirements incorporated into the ROP application or the approved ROP?

- a. Source is issued a NSR permit to install and the equipment is installed by February 2, 1997.
- b. Source becomes subject to a newly promulgated state regulation in July 1998 and the compliance date set in the standard is December 15, 1998.
- c. Source is issued a NSR permit to install on September 30, 1998 for major changes to the most significant process at the facility and installs the equipment by February 3, 1999. Staff determines that this information is necessary for a meaningful ROP and requests the information in writing from the company.
- d. Source is issued a NSR permit to install on October 10, 1998 and the equipment is installed by December 11, 1998.
- e. Source is issued an NSR permit to install on December 15, 1999 and the equipment is installed by December 27, 2000.
- f. Source becomes subject to an newly promulgated MACT standard on June 1, 1999 and the required compliance date is November 1, 1999.

**Answers:** An initial notification shall be provided within 30 days of NSR permit issuance and/or by a deadline specified in a recently promulgated standard. When appropriate, AQD staff may request that the operating information be submitted at any point in time before the draft ROP goes out for comment. This information must be submitted within 30 days of receipt of a written request. Otherwise --

- a) February 2, 1998 (or as part of the January 1, 1999 batch update submittal).
- b) December 15, 1998 (or as part of the January 1, 1999 batch update submittal).
- c) within 30 days of receipt of written request from AQD staff.
- d) December 11, 1999.
- e) ROP amendment pursuant to Rule 216.
- f) November 1, 1999.

**ATTACHMENT B****Deadlines/Timeframes in the ROP Rules**

	SIC Code	Application Submittal Deadline. Rule 210(4)	Batch Update Deadline. Rule 210(2)(c)	Approx. latest date Draft ROP is out for Public Comment. Rule 214(3)	Final Action Date Deadline. Rule 210(13)
Group 1	0600-0999	2-29-96	(none)	1-1-97	2-28-97
	1500-1799				
	1800-1999				
	2000-2039				
	2100-2399				
	2400-2499				
	2950-2999				
	3270-3289				
	5000-5499				
	5600-7499				
Group 2	3000-3099	5-15-96	(none)	1-1-97	2-28-97
	5500-5599				
	7500-7599				
Group 3	3400-3599	7-30-96	(none)	1-1-98	2-28-98
Group 4	1300-1399	10-15-96	(none)	1-1-98	2-28-98
	2051-2099				
	2500-2599				
	2650-2699				
	3600-3699				
	4000-4899				
	7600-7999				
	8100-9999				
Group 5	1000-1299	12-15-96	1-1-98	1-1-99	2-28-99
	1400-1499				
	2040-2050				
	2700-2799				
	3100-3199				
	3200-3269				
	3290-3299				
	3700-3799				
	3714-3799				
	3800-3999				
	4900-4999				
	8000-8099				
Group 6	2600-2649	2-28-97	1-1-99	1-1-00	2-28-00
	2800-2899				
	2900-2949				
	3711-3713				
	3300-3399				